

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

CHARLES SCURLOCK,

Plaintiff,

vs.

MISSOURI ATHLETIC CLUB,

Defendant.

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Case No. 4:06CV1298SNL

MEMORANDUM AND ORDER

Pro se plaintiff filed this employment discrimination action on or about August 29, 2006. Since that time, the docket record shows no further filings by him. This matter is before the Court on defendant's motion to dismiss for failure to prosecute, or in the alternative, to compel discovery (#17), filed June 11, 2007. As of today's date, plaintiff has failed to file a response.

On December 19, 2006 this Court entered its Case Management Order (CMO)(#19) requiring the parties to serve their respective Rule 26(a) Initial Disclosures by January 15, 2007, and to complete all discovery by May 31, 2007. Defendant avers that it served its Initial Disclosures on plaintiff by the requisite deadline; however, to date, plaintiff has failed to serve defendant with his Initial Disclosures.¹ *See*, Defendant's Deposition Record; Exhibit B. Despite twice serving plaintiff with defendant's First Set of Interrogatories and First Request for Production, plaintiff, to date, has failed to respond to same.² Defendant's Deposition Record;

¹On or about January 18, 2007 plaintiff sought and received an extension of time to February 10, 2007 to serve his Initial Disclosures. The Court presumes that plaintiff failed to meet this extended deadline also.

²Plaintiff was first served on January 18, 2007 by certified mail, return receipt requested, but refused to accept service. He was again served with this discovery on April 23, 2007 and evidently did accept service this time.

Exhibits B and C. Finally, defendant avers that despite proper notice, plaintiff failed to appear for his deposition on May 31, 2007. Defendant's Deposition Record.

This cause of action is set for trial on the Court's trial docket of October 1, 2007. With approximately three (3) months remaining until trial, no discovery has been done due to plaintiff's apparent refusal to litigate this matter in a prudent manner. All indications are that plaintiff does not intend to have this matter adjudicated. He has failed to meet any of the discovery deadlines set forth in the CMO, has failed to appear at his properly noticed deposition, and has failed to respond to the instant motion.

Accordingly,

IT IS HEREBY ORDERED that defendant's motion to dismiss for failure to prosecute (#17) be and is **GRANTED**. This cause of action is hereby **DISMISSED** and removed from the Court's trial docket of October 1, 2007. No further action is to be taken in this case.

Dated this 20th day of June, 2007.



SENIOR UNITED STATES DISTRICT JUDGE